

AMENDED IN SENATE AUGUST 21, 2012

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY APRIL 24, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 2392**

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**Introduced by Assembly Member John A. Pérez**

February 24, 2012

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*An act to add Chapter 13 (commencing with Section 3599.50) to Division 4 of Title 1 of the Government Code, and to add Article 4.6 (commencing with Section 14146) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 2392, as amended, John A. Pérez. Medi-Cal: ~~interpreter services.~~ *CommuniCal.*

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing federal law provides for increased administrative funding for translation and interpretation services provided in connection with the enrollment, retention, and use of services under the Medicaid Program.

~~This bill would require the department to seek federal funding to establish a program to provide and reimburse for medical interpretation services to Medi-Cal beneficiaries who are limited English proficient. The bill would require the department to leverage existing funding to fully offset any General Fund costs of the program, as specified.~~

*This bill would require the department to establish the Medi-Cal Patient-Centered Communication program (CommuniCal), to be administered by a 3rd-party administrator; to, commencing July 1, 2013, provide and reimburse for medical interpretation services to Medi-Cal beneficiaries who are limited English proficient (LEP). This bill would establish the CommuniCal Program Fund in the State Treasury, which would consist of moneys dedicated to the CommuniCal program, to be used upon appropriation by the Legislature to the department solely to fund the CommuniCal program.*

*Existing law provides for the certification of administrative hearing interpreters and medical examination interpreters for purposes of administrative adjudications.*

*This bill would require the State Personnel Board to be the certifying body for CommuniCal certified medical interpreters (CCMIs), to establish a certifying examination for those interpreters, and to maintain a registry of those persons who pass the exam, as specified. Commencing July 1, 2013, the bill would require Spanish-language interpreters to be required to pass the exam and be listed on the registry in order to be eligible to provide services under CommuniCal. The bill would require the State Personnel Board, by July 1, 2013, to determine appropriate testing, training, and experience standards for other language interpreters to also be placed on the registry as CCMIs, as specified. The bill would also require the State Personnel Board to establish and charge fees that do not exceed reasonable costs for applicants to take the exam and be certified and listed in the registry and would require the State Personnel Board to adopt quality standards and medical interpretation certification requirements through regulations.*

*Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.*

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. The Legislature finds and declares all of the*
- 2     *following:*
- 3     *(a) California has long been recognized as one of the most*
- 4     *racially and linguistically diverse states; the state is home to over*
- 5     *200 languages.*

1     ***(b) Approximately one in five Californians is limited English***  
2     ***proficient (LEP) and identifies as speaking English less than very***  
3     ***well.***

4     ***(c) Language access and the right to interpretation services is***  
5     ***required under Title VI of the federal Civil Rights Act of 1964, the***  
6     ***Dymally-Alatorre Bilingual Services Act of 1973 (Chapter 17.5***  
7     ***(commencing with Section 7290) of Division 7 of Title 1 of the***  
8     ***Government Code), the Knox-Keene Health Care Service Plan***  
9     ***Act of 1975 (Chapter 2.2 (commencing with Section 1340) of***  
10    ***Division 2 of the Health and Safety Code), Section 11135 of the***  
11    ***Government Code, Section 1259 of the Health and Safety Code,***  
12    ***and California civil rights law.***

13    ***(d) The demand for medical interpretation services by Medi-Cal***  
14    ***beneficiaries is significant, with 45.2 percent of Medi-Cal***  
15    ***beneficiaries speaking a language other than English.***

16    ***(e) The state will experience an even greater demand for***  
17    ***language services as health care reform measures are implemented***  
18    ***over the next few years and 35 percent of Californians expected***  
19    ***to become newly eligible for Medi-Cal as a result of the federal***  
20    ***Patient Protection and Affordable Care Act (Public Law 111-148)***  
21    ***will speak English less than well.***

22    ***(f) In California, language assistance services are provided in***  
23    ***an uncoordinated manner that lacks transparency and***  
24    ***accountability, and a majority of services are currently provided***  
25    ***ad-hoc by family members and friends or untrained staff.***

26    ***(g) California has the opportunity to meet the growing demand***  
27    ***early on by accessing millions of dollars in federal matching funds***  
28    ***to provide medical interpretation services to LEP Medi-Cal***  
29    ***beneficiaries.***

30    ***(h) Professional medical interpretation services help reduce***  
31    ***avoidable medical errors and provider malpractice liability for***  
32    ***physicians and other health care providers.***

33    ***(i) A coordinated program to offer medical interpreter services***  
34    ***will improve health care outcomes for LEP Californians and help***  
35    ***control health care costs that result from a lack of access to***  
36    ***preventative and primary care.***

37    ***SEC. 2. It is the intent of the Legislature to do all of the***  
38    ***following:***

1 (a) Create the CommuniCal program, which shall provide  
2 reliable access to language interpretation for Medi-Cal  
3 beneficiaries who are limited English proficient.

4 (b) Establish a mechanism for accessing federal Medicaid  
5 matching funds to provide a majority of the funding for the  
6 CommuniCal program.

7 (c) Enable trained and qualified interpreters to meet the demand  
8 for language services for a significant portion of the estimated  
9 three million Medi-Cal beneficiaries with limited English  
10 proficiency.

11 (d) Facilitate accurate and timely communication between  
12 limited English proficient patients and their health care providers,  
13 which will improve quality of care, reduce medical errors, increase  
14 patient understanding and compliance with health diagnoses and  
15 care plans, and reduce the cost of health care by eliminating waste,  
16 such as unnecessary tests and other care.

17 SEC. 3. Chapter 13 (commencing with Section 3599.50) is  
18 added to Division 4 of Title 1 of the Government Code, to read:

19  
20 CHAPTER 13. COMMUNICAL CERTIFIED MEDICAL  
21 INTERPRETERS  
22

23 Article 1. Certification and Registration of CommuniCal  
24 Medical Interpreters  
25

26 3599.50. (a) For purposes of this chapter, the following  
27 definitions apply:

28 (1) "CommuniCal" means the Medi-Cal Patient-Centered  
29 Communication program established pursuant to Article 4.6  
30 (commencing with Section 14146) of Chapter 7 of Part 3 of  
31 Division 9 of the Welfare and Institutions Code.

32 (2) "CommuniCal certified medical interpreter" or "CCMI"  
33 means an interpreter who has been certified pursuant to Section  
34 3599.51.

35 (3) "Certifying body" means the State Personnel Board.

36 (4) "Exam" means the CommuniCal Certified Medical  
37 Interpreter Exam.

38 (b) Notwithstanding any other law, the State Personnel Board  
39 shall serve as the CommuniCal certified medical interpreter  
40 (CCMI) certifying body. The certifying body shall select an

1 examination through which competency will be tested and provide  
2 for the certification of Spanish-language medical interpretation  
3 within 120 days of the implementation of this bill. The examination  
4 shall be known as the CommuniCal Certified Medical Interpreter  
5 Exam. It shall have both an oral and a written component. The  
6 oral component shall be conducted in person in each of the major  
7 metropolitan areas in the State of California.

8 3599.51. (a) The certifying body shall select a nonprofit  
9 organization to administer the exam. The nonprofit organization  
10 shall have a statewide presence. A list of all interpreters who pass  
11 the exam shall be maintained by the certifying body and shall be  
12 known as the CommuniCal Certified Medical Interpreter Registry.  
13 A CCMI is someone who has passed the exam, is listed on the  
14 registry, and has been issued a certificate by the certifying body  
15 attesting that the person is a CommuniCal Certified Medical  
16 Interpreter.

17 (b) (1) Commencing July 1, 2013, in order to be eligible to  
18 provide services under CommuniCal, Spanish-language  
19 interpreters shall be required to pass the exam and be listed on  
20 the registry.

21 (2) For those languages of lesser diffusion or languages for  
22 which a recognized medical interpreter exam has not been created,  
23 the certifying body shall, by July 1, 2013, determine, with certified  
24 medical interpreters, appropriate testing, training, and experience  
25 standards for interpreters to also be placed on the registry and  
26 listed as CommuniCal Certified Medical Interpreters.

27 (3) In order to meet anticipated demand for services under  
28 CommuniCal, all interpreters who have been previously otherwise  
29 certified as medical interpreters by the certifying body within 30  
30 days of the operative date of this chapter shall be immediately  
31 listed on the registry.

32 3599.52. (a) The certifying body shall establish and charge  
33 fees, which do not exceed the reasonable costs, for applicants to  
34 take the exam. The certifying body shall establish and charge a  
35 single fee that does not exceed the reasonable costs for certification  
36 and listing on the registry. The purpose of these fees is to cover  
37 the annual projected costs of carrying out this article. The fees  
38 may be adjusted each fiscal year by a percent that is equal to or  
39 less than the percent change in the California Necessities Index  
40 prepared by the Commission on State Finance.

(b) Each CCMI shall pay a registry and certification fee, not to exceed the reasonable costs, for the renewal of the certification and continued listing on the registry. The registry and certificate fee shall be due on July 1 of each year.

(c) The certifying body shall establish, maintain, administer, and publish annually an updated registry of CCMIIs. The certifying body may remove the name of a person from the registry if any of the following conditions occurs:

(1) The person is deceased.

(2) The person notifies the board that the person is unavailable for work.

(3) The person does not submit a registry and certification fee or renewal fee as required by subdivision (b).

(d) For the 2013–14 fiscal year only, the fee for certification and listing on the registry pursuant to paragraph (3) of subdivision (b) of Section 3599.51 is waived.

3599.53. The certifying body shall adopt quality standards and medical interpretation certification requirements through regulations. It shall determine the testing requirements for certification in each language and create a list of those languages where standards permit registration of the interpreter.

SEC. 4. Article 4.6 (commencing with Section 14146) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

#### Article 4.6. CommuniCal

14146. For the purposes of this article, the following definitions shall apply:

(a) “CommuniCal” means the Medi-Cal Patient-Centered Communication program.

(b) “CommuniCal certified medical interpreter” or “CCMI” means an interpreter certified under the CommuniCal program pursuant to Article 1 (commencing with Section 3599.50) of Chapter 13 of Division 4 of Title 1 of the Government Code.

(c) “Department” means the State Department of Health Care Services.

(d) “Medi-Cal managed care organizations” or “MMCOs” means all models of Medi-Cal managed care, including

1 county-organized health systems, geographic managed care, and  
2 two-plan models.

3 (e) “Patient-centered communication broker” or “broker”  
4 means the third-party administrator for the CommuniCal program.

5 14146.10. (a) The department shall establish the CommuniCal  
6 program to provide and reimburse for certified medical  
7 interpretation services to Medi-Cal beneficiaries who are limited  
8 English proficient (LEP).

9 (b) Commencing July 1, 2013, CommuniCal shall offer medical  
10 interpreter services to Medi-Cal providers serving Medi-Cal  
11 beneficiaries on either a fee-for-service or managed care basis  
12 pursuant to this article.

13 (c) A health care provider or entity entering into a Medi-Cal  
14 provider agreement or a Medi-Cal managed care contract with  
15 the state, including MMCOs and their subcontracting plans, and  
16 fee-for-service providers, may utilize CommuniCal to provide  
17 medical interpreter services to Medi-Cal beneficiaries.

18 (d) All contracts between MMCOs and their subcontractors,  
19 including health providers and other health plans, shall include  
20 provisions describing access to CommuniCal medical interpreter  
21 services.

22 (e) The department shall pursue all available sources of federal  
23 funding to establish and operate CommuniCal and shall seek any  
24 federal approvals necessary to implement this article.

25 14146.11. CommuniCal shall include the provision of  
26 in-person, telephonic, and video medical interpretation services.  
27 To meet language access requirements and ensure patient safety,  
28 in-person interpreter services shall be the preferred mode of  
29 medical interpretation in the following instances whenever  
30 possible:

31 (a) Family meetings regarding medical care.

32 (b) Medical encounters involving difficult or agitated patients.

33 (c) Medical encounters to make treatment decisions.

34 (d) Obtaining informed consent involving review of documents.

35 (e) Any medical encounter that, in the physician’s judgment,  
36 requires in-person interpretation for the health, safety, or  
37 well-being of the patient.

38 (f) Psychiatric encounters.

39 (g) End-of-life discussions.

1 14146.12. (a) CommuniCal shall be administered by a  
2 patient-centered communication broker.

3 (b) The department shall create and administer a competitive  
4 Request for Proposals (RFP), and shall execute the resulting  
5 contract.

6 (c) The broker shall be responsible for all of the following  
7 duties:

8 (1) Registering CCMIs with Medi-Cal.

9 (2) Verifying CCMI certification with the State Personnel Board.

10 (3) Verifying Medi-Cal eligibility for interpreter services  
11 utilizing the state's Medi-Cal Eligibility Data System (MEDS).

12 (4) Submitting billing summaries to Medi-Cal, aggregating the  
13 cost for services provided.

14 (5) Ensuring compliance with all Medi-Cal and applicable  
15 CommuniCal reporting requirements.

16 (6) Making payments to CCMI, including any dues and service  
17 fee deductions.

18 (7) Scheduling CCMI appointments with Medi-Cal providers.

19 (8) Monitoring the quality of CommuniCal interpreter services  
20 and complying with state oversight requirements of the program.

21 (9) Creating CommuniCal promotional materials for distribution  
22 to Medi-Cal providers, MMCOs, and beneficiaries.

23 (d) The department shall make all applicable Medi-Cal reporting  
24 requirements known to the broker and shall be responsible for the  
25 broker's compliance with these requirements.

26 14146.13. (a) Notwithstanding any other law, only interpreters  
27 certified pursuant to Article 1 (commencing with Section 3599.50)  
28 of Chapter 13 of Division 4 of Title 1 of the Government Code may  
29 participate in CommuniCal.

30 (b) CCMI shall be responsible for all of the following:

31 (1) Performing interpreter services independent of other  
32 policies, rules, or procedures of conduct, except as provided by  
33 this article or by applicable law.

34 (2) Performing interpreter services independent of direction,  
35 except as otherwise provided by this article and applicable law.

36 (3) Preparing and submitting documentation to the broker in  
37 support of time worked or other services rendered.

38 (4) Directing and controlling the manner and means of  
39 interpretation services, except as otherwise provided in this article.



1 (c) Unless otherwise prohibited by this article or applicable  
2 law, CCMIs may do any of the following:

3 (1) Advertise, promote, or otherwise communicate availability  
4 for services to clients and the general public.

5 (2) Provide office space, equipment, support services, forms,  
6 supplies, and business cards, except as otherwise provided in this  
7 article.

8 14146.14. The department shall issue guidance on the  
9 administration of the CommuniCal program to ensure compliance  
10 with this article and all applicable state and federal laws by all  
11 contractors and subcontractors of the program.

12 14146.15. (a) The CommuniCal Program Fund is hereby  
13 created in the State Treasury. Notwithstanding Section 16305.7  
14 of the Government Code, any interest and dividends earned on  
15 deposits in the fund shall be retained in the fund for purposes  
16 specified in subdivision (c).

17 (b) Moneys in the fund shall consist of any funds dedicated to  
18 the CommuniCal program.

19 (c) Moneys in the fund shall, upon appropriation by the  
20 Legislature to the department, be used solely to fund the  
21 CommuniCal program.

22 SECTION 1. It is the intent of the Legislature to do all of the  
23 following:

24 ~~(a) Create a program that shall provide reliable access to~~  
25 ~~language interpretation for Medi-Cal beneficiaries who are limited~~  
26 ~~English proficient.~~

27 ~~(b) Establish a mechanism for accessing federal Medicaid~~  
28 ~~matching funds to provide funding for the program.~~

29 ~~(c) Enable trained and qualified interpreters to meet the demand~~  
30 ~~for language services for a significant portion of Medi-Cal~~  
31 ~~beneficiaries with limited English proficiency.~~

32 ~~(d) Facilitate accurate and timely communication between~~  
33 ~~limited English proficient patients and their health care providers,~~  
34 ~~which will improve quality of care, reduce medical errors, increase~~  
35 ~~patient understanding and compliance with health diagnoses and~~  
36 ~~care plans, and reduce the cost of health care by eliminating~~  
37 ~~unnecessary tests and other care.~~

38 SEC. 2. Article 4.6 (commencing with Section 14146) is added  
39 to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions  
40 Code, to read:

1       Article 4.6. ~~Medi-Cal Medical Interpretation Services~~

2  
3       ~~14146. (a) The department shall seek federal funding to~~  
4 ~~establish a program to provide and reimburse for certified medical~~  
5 ~~interpretation services to Medi-Cal beneficiaries who are limited~~  
6 ~~English proficient.~~

7       ~~(b) The program shall offer medical interpreter services to~~  
8 ~~Medi-Cal providers serving Medi-Cal beneficiaries on either a~~  
9 ~~fee-for-service or managed care basis pursuant to this article.~~

10       ~~(c) A health care provider or entity entering into a Medi-Cal~~  
11 ~~provider agreement or a Medi-Cal managed care contract with the~~  
12 ~~state, including Medi-Cal managed care organizations (MMCOs)~~  
13 ~~and their subcontracting plans, and fee-for-service providers, may~~  
14 ~~utilize the program to provide medical interpreter services to~~  
15 ~~Medi-Cal beneficiaries.~~

16       ~~(d) All contracts between MMCOs and their subcontractors,~~  
17 ~~including health providers and other health plans, shall include~~  
18 ~~provisions describing access to medical interpreter services under~~  
19 ~~this program.~~

20       ~~(e) The department shall pursue all available sources of federal~~  
21 ~~funding to establish and administer the program and shall seek any~~  
22 ~~federal approvals necessary to implement this article.~~

23       ~~(f) For purposes of this article, the department shall develop a~~  
24 ~~mechanism to leverage existing sources of funding associated with~~  
25 ~~medical interpretation services, in order to fully offset state General~~  
26 ~~Fund costs for the provision of medical interpretation services and~~  
27 ~~program administration.~~